

Article - Health - General

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§8–507.

(a) (1) Except as provided in paragraph (2) of this subsection and subject to the limitations in this section, a court that finds in a criminal case or during a term of probation that a defendant has an alcohol or drug dependency may commit the defendant as a condition of release, after conviction, or at any other time the defendant voluntarily agrees to participate in treatment, to the Department for treatment that the Department recommends, even if:

(i) The defendant did not timely file a motion for reconsideration under Maryland Rule 4–345; or

(ii) The defendant timely filed a motion for reconsideration under Maryland Rule 4–345 which was denied by the court.

(2) (i) If a defendant is serving a sentence for a crime of violence, as defined in § 14–101 of the Criminal Law Article, a court may not order the Department to treat a defendant under this section until the defendant is eligible for parole.

(ii) Nothing in this paragraph may be construed to prohibit a defendant who is serving a sentence for a crime of violence, as defined in § 14–101 of the Criminal Law Article, from participating in any other treatment program or receiving treatment under the supervision of the Department under any other provision of law.

(b) Before a court commits a defendant to the Department under this section, the court shall:

(1) Offer the defendant the opportunity to receive treatment;

(2) Obtain the written consent of the defendant:

(i) To receive treatment; and

(ii) To have information reported back to the court;

(3) Order an evaluation of the defendant under § 8–505 or § 8–506 of this subtitle;

(4) Consider the report on the defendant's evaluation; and

(5) Find that the treatment that the Department recommends to be appropriate and necessary.

(c) Immediately on receiving an order for treatment under this section, the Department shall order a report of all pending cases, warrants, and detainers for the defendant and forward a copy of the report to the court, the defendant, and the defendant's last attorney of record.

(d) (1) The Department shall provide the services required by this section.

(2) A designee of the Department may carry out any of the Department's duties under this section.

(e) (1) A court may not order that the defendant be delivered for treatment until:

(i) Any detainer based on an untried indictment, information, warrant, or complaint for the defendant has been removed; and

(ii) Any sentence of incarceration for the defendant is no longer in effect.

(2) The Department shall facilitate the immediate treatment of a defendant unless the court finds exigent circumstances to delay commitment for treatment for longer than 30 days.

(3) If a defendant who has been committed for treatment under this section is not placed in treatment within 21 days of the order, the court may order the Department to appear to explain the reason for the lack of placement.

(f) For a defendant committed for treatment under this section, a court shall order supervision of the defendant:

(1) By an appropriate pretrial release agency, if the defendant is released pending trial;

(2) By the Division of Parole and Probation under appropriate conditions in accordance with §§ 6–219 through 6–225 of the Criminal Procedure Article and Maryland Rule 4–345, if the defendant is released on probation; or

(3) By the Department, if the defendant remains in the custody of a local correctional facility.

(g) A court may order law enforcement officials, detention center staff, Department of Public Safety and Correctional Services staff, or sheriff's department staff within the appropriate local jurisdiction to transport a defendant to and from treatment under this section.

(h) The Department shall promptly report to a court a defendant's withdrawal of consent to treatment and have the defendant returned to the court within 7 days for further proceedings.

(i) A defendant who is committed for treatment under this section may question at any time the legality of the commitment by a petition for a writ of habeas corpus.

(j) (1) A commitment under this section shall be for at least 72 hours and not more than 1 year.

(2) On good cause shown by the Department, the court, or the State, the court may extend the time period for providing the necessary treatment services in increments of 6 months.

(3) Except during the first 72 hours after admission of a defendant to a treatment program, the Department may terminate the treatment if the Department determines that:

(i) Continued treatment is not in the best interest of the defendant; or

(ii) The defendant is no longer amenable to treatment.

(k) When a defendant is to be released from treatment under this section, the Department shall notify the court that ordered the treatment.

(l) (1) If a defendant leaves treatment without authorization, the responsibility of the Department is limited to the notification of the court that ordered the defendant's treatment as soon as it is reasonably possible.

(2) Notice under this subsection shall constitute probable cause for a court to issue a warrant for the arrest of a defendant.

(m) Nothing in this section imposes any obligation on the Department:

(1) To treat any defendant who knowingly and willfully declines to consent to further treatment; or

(2) In reporting to the court under this section, to include an assessment of a defendant's dangerousness to one's self, to another individual, or to the property of another individual by virtue of a drug or alcohol problem.

(n) Time during which a defendant is held under this section for inpatient evaluation or inpatient or residential treatment shall be credited against any sentence imposed by the court that ordered the evaluation or treatment.

(o) This section may not be construed to limit a court's authority to order drug treatment in lieu of incarceration under Title 5 of the Criminal Law Article.

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